IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 1021 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJPUT BALVIRSIGH NISINGSIGH
Versus
THE STATE OF GUJARAT

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Appearance :
MR DHAVAL N VAKIL for Applicant

MR KS SHAH APP for Respondent

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA
Date : 28/12/2005

ORAL JUDGMENT

1 RULE. Waived by learned APP Mr. K.C. Shah for the respondent State. The Revision Application was

heard finally upon request of learned Advocates for the parties.

2 This Criminal Revision Application is directed against an order passed by Principal Sessions Judge, Mehsana, on 14.12.2005 rejecting the Criminal Misc. Application filed by the present applicant for condonation of delay in a Criminal Appeal against his conviction under Sections 363, 376, etc. Mainly, it was urged that he was not informed about filing of the Appeal by learned Advocate provided to him at the State expense and thereafter since he being all alone and his family belonged to Jammu and Kashmir State, Appeal could not be filed within the prescribed period of limitation and was filed after seven months.

3 Learned Principal Sessions Judge, Mehsana observed that there were two accused, and out of that, the other accused did not file any appeal and was undergoing sentence, and that ignorance of law had no excuse. It was also observed that the

applicant was given a copy of the judgment on 12th of April, 2005 on the day of the conviction, even then, the appeal came to be filed as late as by seven months and hence learned Principal Sessions Judge rejected the Criminal Misc. Application for condonation of delay.

4 Having heard learned counsels for the parties and having gone through the application preferred before the learned Principal Sessions Judge, Mehsana, it is quite apparent from the record that even if a copy of the judgment was tendered to the appellant, he was not in position to prefer the appeal against the conviction on account of his circumstances – financial as well as family, which were beyond his reach. The cardinal principle for condonation of delay is that the grounds must be liberally construed and if any negligence is found on the part of the such applicant, delay may not be condoned. Having gone through the application, though ignorance of law is not an excuse and when the applicant intends to exercise his statutory right of appeal against

conviction, liberally construing the grounds, this court is satisfied that sufficient grounds are made out by the applicant for condonation of delay.

5 In this view of matter, this application is allowed. Order impugned in this Revision Application dated 14th of December, 2005, delivered by Principal Sessions Judge, Mehsana, in Criminal Misc. Application is quashed and the Criminal Misc. Application of the applicant for condonation of delay is allowed. Sessions Court is directed to register the Appeal of the applicant and proceed with the same according to law. Rule made absolute. DS permitted.

(J.R.VORA, J.)

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